RECENT IMPORTANT DECISIONS

ANTI-TRUST LAW—POLICE POWER—RESTRAINTS OF TRADE—NECESSITY OF INTENT.—Action was brought by the state against certain corporations charging them with a violation of the state statute declaring null and void all combinations made with a view to lessen, or which tend to lessen, competition in the manufacture or sale, or to control the prices of articles of domestic growth or of domestic raw material. On demurrer, *Held:* (1) That the Act is constitutional; (2) That it applies only to unreasonable restraints of trade; (3) That it is unnecessary to allege that the acts charged actually did restrain trade. *State* v. *Virginia-Carolina Chemical Co. et al.* (1905), — S. C. —, 51 S. E. Rep. 455.

(1) Where the state anti-trust laws exempt from their operation certain classes of combinations, they have been held invalid, as denying the equal protection of the laws. *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540, 22 Sup. Ct. 431, 46 L. Ed. 679. Contra, *State* v. *Schlitz Brewing Co.*, 104 Tenn. 715, 59 S. W. 1033, 78 Am. St. Rep. 941. But where the statutes are general in their terms, embracing all classes, they are upheld as a valid exercise of the police power. *State* v. *Buckeye Pipe Line Co.*, 61 Ohio St. 520, 56 N. E. 464; *Smiley* v. *Kansas*, 196 U. S. 447, 49 L. Ed. 546, 25 Sup. Ct. 289; *Houck* v. *Anheuser-Busch Brewing Ass'n*, 88 Texas 184, 30 S. W. 869; *In re Davies*, 168 N. Y. 89, 61 N. E. 118. (2) In holding that the Act applied only to unreasonable restraints of trade the court adopted the views of JUSTICE BREWER in *Northern Securities Co.* v. *United States*, 193 U. S. 197, 24 Sup. Ct. 436, 48 L. Ed. 679, declining to follow the decision of JUSTICE HARLAN therein. The contrary was directly held in *United States* v. *Trans-Missouri Freight Ass'n*, 166 U. S. 290, 17 Sup. Ct. 540, 41 L. Ed. 1007; *United States* v. *Coal Dealers' Ass'n*, 85 Fed. 252. (3) The defendants contended that as the only acts charged in the complaint were lawful, and as there was no allegation that they actually did lessen competition, no unlawful intent would be inferred. But the court was of the opinion that a restraint of trade would reasonably be the result of the acts alleged, and therefore the law would presume that such a result was intended. *United States* v. *The Paul Sherman*, Pet. (C. C.) 98, 27 Fed. Cas. No. 16,012. And where such an intent exists, producing a dangerous probability that the acts contemplated will occur, there the statute directs itself against that dangerous probability as well as against the completed result. *Swift & Co.* v. *United States*, 196 U. S. 375, 25 Sup. Ct. 276, 49 L. Ed. 518; *Harding* v. *American Glucose Co.*, 182 Ill. 551, 55 N. E. 577, 64 L. R. A. 738 and Note. Cf. *MacGinniss* v. *Boston & Mont. Consol. Copper & Silver Min. Co.*, 29 Mont. 428, 75 Pac. 89, holding that a specific intent or necessary tendency to restrain trade must be shown.

BANKS AND BANKING — COLLECTION — NEGLIGENCE.— Defendant bank received a cashier's check for collection and entered its face as a deposit to the credit of plaintiff. Defendant sent the check to the drawee bank for collection. Drawee dishonored it, but for nine days defendant failed to notify